

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
BUREAU OF DEVELOPMENTAL SERVICES**

**INTERDEPARTMENTAL RELEASE
IR 2012-01**

DATE: November 2, 2012

FROM: Khabir LeClair, Rules Coordinator **AT:** Office of Client and Legal Services
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Concord, NH 03301

SUBJECT: Readoption of the following rules affecting developmental services programs:

**PART He-M 1302, NURSING FACILITY PREADMISSION SCREENING AND
RESIDENT REVIEW (PASRR)**

Effective dates: October 29, 2012 – October 29, 2020

TO: All Holders of Rules Manuals

He-M 1302 describes the screening process and criteria for determining the appropriateness of admitting or continuing placement of applicants with mental illness or developmental disability to Medicaid certified nursing facilities. Each applicant for admission is screened to confirm mental illness or developmental disability, to determine if the applicant requires nursing facility services, and, if found appropriate for admission, to determine whether the applicant requires specialized services in addition to those typically provided by nursing facilities.
The rules were applicable as of the effective date.

TRAINING:

No training is planned at this time.

DISTRIBUTION:

Proposed and newly adopted rules are distributed to everyone on the Bureau's mailing list.

An electronic copy of any He-M rule may be requested by calling Khabir LeClair at 271-5129 or emailing to kleclair@dhhs.state.nh.us.

The NH Office of Legislative Services makes developmental services rules available on the internet shortly after their effective dates at:

http://gencourt.state.nh.us/rules/state_agencies/he-m.html

All currently effective rules are available at this webpage.

POSTING INSTRUCTIONS:

Remove and Destroy:
He-M 1302, effective 2/7/04

Insert:
He-M 1302, effective 10/29/12 – 10/29/20

PART He-M 1302 NURSING FACILITY PREADMISSION SCREENING AND RESIDENT REVIEW (PASRR)

Statutory Authority: New Hampshire RSA 135-C:61, XII; RSA 171-A:3

He-M 1302.01 Purpose. The purpose of these rules is to describe the screening process and criteria for determining the appropriateness of admitting or continuing placement of applicants with mental illness or developmental disability to Medicaid certified nursing facilities. Each applicant for admission is screened to confirm mental illness or developmental disability, to determine if the applicant requires nursing facility services, and, if found appropriate for admission, to determine whether the applicant requires specialized services in addition to those typically provided by nursing facilities.

He-M 1302.02 Definitions. The words and phrases used in these rules shall mean the following:

- (a) "Applicant" means an individual who applies for residence in a Medicaid certified nursing facility.
- (b) "Appropriate placement" means an individual's needs are such that he or she meets the minimum standards for admission pursuant to He-M 1302.07 and the individual's needs for treatment do not exceed the level of services which can be delivered in the nursing facility to which the individual is admitted either through nursing facility services alone or, where necessary, through nursing facility services supplemented by specialized services provided by or arranged for by the department.
- (c) "Bureaus" means the bureau of developmental services and the bureau of behavioral health of the New Hampshire department of health and human services.
- (d) "Developmental disability (DD)" means "mental retardation" as defined in 42 CFR 483.102 (b)(3) and as described in the American Association on Mental Retardation's Manual on Classification in Mental Retardation (1983).
- (e) "Department" means the New Hampshire department of health and human services.
- (f) "Informed decision" means a choice made by an applicant or, where appropriate, the applicant's legal representative, that is reasonably certain to have been made subsequent to a rational consideration on the applicant's part of the advantages and disadvantages of each course of action open to the applicant.
- (g) "Licensed medical professional" means a licensed nurse, advanced practice registered nurse, physician, physician assistant, physical therapist, or occupational therapist.
- (h) "Mental illness (MI)" means a condition such that:
 - (1) The disorder is classified in the Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised, as:
 - a. A schizophrenic, mood, paranoid, panic, or other severe anxiety disorder;
 - b. A somatoform disorder;
 - c. A personality disorder;
 - d. Another psychotic disorder; or

e. Another mental disorder that may lead to a chronic disability;

(2) There is not a primary diagnosis of dementia, including Alzheimer's disease or a related disorder, or a non-primary diagnosis of dementia, unless the primary diagnosis is a mental disorder identified in (1) above;

(3) The disorder has resulted in functional limitations in major life activities within the past 3 to 6 months that would be appropriate for the individual's developmental stage, such that the individual has at least one of the following characteristics on a continuing or intermittent basis:

a. Serious difficulty interacting appropriately and communicating effectively with other persons, including a possible history of altercations, evictions, firing, fear of strangers, avoidance of interpersonal relationships, or social isolation;

b. Serious difficulty in sustaining focused attention for a long enough period to permit the completion of tasks commonly found in work settings or in work-like structured activities occurring in school or home settings, including:

1. Difficulties in concentration;

2. Inability to complete simple tasks within an established time period;

3. Making frequent errors; or

4. Requiring assistance in the completion of simple tasks; or

c. Difficulty in adapting to typical changes in circumstances associated with work, school, family, or social interaction as demonstrated by:

1. Agitation, exacerbated signs and symptoms associated with the illness, or withdrawal from the situation; or

2. Need of intervention by the mental health or judicial system; and

(4) The treatment history indicates that the individual has experienced at least one of the following within the past 2 years:

a. Psychiatric treatment more intensive than outpatient care; or

b. Due to the mental disorder, an episode of significant disruption to the normal living situation:

1. For which supportive services were required to maintain functioning at home or in a residential treatment environment; or

2. Which resulted in intervention by housing or law enforcement officials.

(i) "Nursing facility" means an institution or a distinct part of an institution that is:

(1) Participating in the Medicaid program;

(2) Meeting the requirements of Section 1919 of the Social Security Act, 42 USC 1396r;

(3) Not primarily an institution for mental diseases (IMD) as defined in 42 CFR 435.1010, or an intermediate care facility for the mentally retarded (ICF/MR) as defined in 42 CFR 440.150; and

(4) Providing one or more of the following:

- a. Skilled nursing care and related services for residents who require medical or nursing care;
- b. Rehabilitative services for the rehabilitation of injured, disabled or sick individuals; or
- c. Health-related care and services to individuals who, because of their mental or physical condition, require care and services that are above the level of room and board, and that can be made available to them only through an institution.

(j) "PASRR office" means that office delegated the functional responsibility by the department of:

- (1) Carrying out preadmission screenings; and
- (2) Performing reviews pursuant to He-M 1302.13.

(k) "Referral agent" means:

- (1) Hospitals;
- (2) Nursing facilities;
- (3) Area agencies;
- (4) Community mental health centers; or
- (5) Any other person or entity seeking to place a person in a nursing facility.

(l) "Skilled nursing care" means those health related services, above the level of room and board, which meet the criteria used by the Medicare program for skilled nursing care, per 42 USC 1395i3.

(m) "Specialized services for DD" means those services that, combined with services provided by the nursing facility, result in a continuous active treatment program, which:

- (1) Includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services; and
- (2) Is directed toward the acquisition of the behaviors necessary for the individual to function with as much self determination and independence as possible.

(n) "Specialized services for MI" means those services that, combined with services provided by the nursing facility, result in continuous and aggressive implementation of an individualized plan of care which:

- (1) Is developed and supervised by an interdisciplinary team which includes a physician, qualified mental health professionals, and, as appropriate, other professionals;
- (2) Prescribes specific therapies and activities for the treatment of persons experiencing an acute episode of serious mental illness which requires intervention by trained behavioral health personnel, and
- (3) Is directed toward:
 - a. Diagnosing and reducing the person's behavioral symptoms that necessitate institutionalization;
 - b. Improving his/her level of independent functioning; and
 - c. Achieving a functioning level that permits reduction in the intensity of mental health services to below the level of specialized services at the earliest possible time.

(o) "Terminal condition" means a condition caused by injury, disease, or illness for which there is no reasonable medical probability of recovery and which can be expected to cause death within 2 years as determined by a physician.

He-M 1302.03 Identifying and Referring Nursing Facility Applicants with MI or DD – the Level I Screen.

(a) A referral agent shall conduct a level I screen for every applicant seeking admission to a Medicaid certified nursing facility to identify each applicant who is suspected of:

- (1) Having MI as defined in He-M 1302.02(h); or
- (2) Having DD as defined in He-M 1302.02(d).

(b) The referral agent shall use "PASSR Level 1 Review Form" (11/2012 edition) for conducting the level I screen.

(c) Every applicant's medical record at the nursing facility shall contain a completed "PASSR Level 1 Review Form" (11/2012 edition).

(d) For each applicant identified in (a) above, the referral agent shall submit the following, as applicable, to the PASRR office for a level II evaluation:

- (1) The applicant's name and address;
- (2) The name and address of the referring agency and the receiving agency;
- (3) The applicant's date of birth;
- (4) The name, address, telephone number, and relationship of the applicant's nearest relative or, if applicable, legal representative;
- (5) The applicant's Medicaid claim number and information regarding the applicant's other insurance and resources, as available;

- (6) The date of admission to the referring agency and the date of transfer to the receiving agency, if available;
- (7) The applicant's suspected MI or DD diagnosis;
- (8) The applicant's physical history and current functional, mental, and physical status, including:
 - a. Current medications;
 - b. Sensory impairments;
 - c. Functional assessments;
 - d. Physical disabilities; and
 - e. Need for assistive devices;
- (9) The applicant's rehabilitation goals and the estimated length of stay, if applicable;
- (10) The physician's name;
- (11) Psychiatric history and consultations covering at least the past 2 years, including:
 - a. Identification of one or more of the disorders as defined in He-M 1302.02(h);
 - b. A description of how the disorder has resulted in functional limitations in major life activities within the past 3 to 6 months;
 - c. A description of the last 2 years' psychiatric treatment history and in-patient psychiatric treatment; and
 - d. A description of interventions from social service or law enforcement representatives relative to the MI;
- (12) If referred from a hospital setting, intake, history and physical, and consultation reports;
- (13) The written notice pursuant to (e) below; and
- (14) Any other information that is considered by the referral agent to be necessary to make an accurate determination pursuant to He-M 1302.06(a).

(e) For each applicant identified in (a) above, the referral agent shall give the applicant, or his or her legal guardian or legal representative, a written notice explaining that the applicant is being referred to the PASRR office for level II evaluation pursuant to He-M 1302.03(d).

He-M 1302.04 Level II Evaluations and Determinations.

(a) For all applicants referred in accordance with He-M 1302.03 above, the PASRR office shall perform a level II evaluation and determination to:

- (1) Confirm the existence of MI or DD; and
- (2) For those for whom the existence of MI or DD is confirmed:
 - a. Determine if the applicant needs nursing facility services pursuant to He-M 1302.07;
 - b. Determine if the nursing facility is an appropriate placement;
 - c. Specify whether the applicant requires specialized services pursuant to He-M 1302.10 or He-M 1302.11; and
 - d. Specify the supports the individual needs to reside in the community.
- (b) The PASRR office shall terminate the level II evaluation and determination process for those for whom a diagnosis of MI or DD is not confirmed.
- (c) Exemptions and exclusions to (a) above shall be as listed in He-M 1302.05 below.
- (d) Categorical decisions regarding predetermined eligibility for nursing facility services as described in He-M 1302.06 shall preclude the requirement for a level II evaluation and determination except as noted in He-M 1302.06(f), (h), (i), and (j).
- (e) The PASRR office shall complete the report pursuant to He-M 1302.12(a) for all preadmission referrals within 9 working days.
- (f) For all applicants who are confirmed to have MI or DD, the PASRR office shall maintain records of evaluations and determinations in a confidential manner for 6 years.

He-M 1302.05 Exemptions and Exclusions.

- (a) An applicant shall be exempt from level II evaluation and determination if he or she:
 - (1) Is admitted to a nursing facility from a hospital after receiving acute care;
 - (2) Needs nursing facility services;
 - (3) Requires services for the condition for which he or she received acute care at the hospital; and
 - (4) Has a physician who certifies that the individual is likely to require nursing facility services for less than 30 days.
- (b) For persons admitted pursuant to (a) above whose nursing facility stay exceeds 30 days, the PASRR office shall perform a level II evaluation and determination before the 40th day from the individual's admission to the nursing facility.
- (c) An applicant with a diagnosis of dementia and MI shall be excluded from the level II evaluation and determination if:
 - (1) The MI will not likely be the focus of treatment again; and

(2) The referral source has documented that:

- a. Dementia is the primary diagnosis; and
- b. The dementia is advanced such that the MI will not likely be the primary focus of treatment.

(d) An applicant who has MI or DD shall be exempt from level II evaluation and determination if he or she has a notice on file with the PASRR office per He-M 1302.03(e) and:

- (1) Is being re-admitted to a nursing facility from a hospital; or
- (2) Is transferring from one nursing facility to another with or without an intervening hospital stay.

He-M 1302.06 Categorical Decisions.

(a) An applicant shall be predetermined eligible for nursing facility services if he or she needs nursing facility services pursuant to He-M 1302.07 and meets one of the following criteria:

- (1) Has a terminal condition and is not a danger to self or others;
- (2) Has a severe physical condition that has resulted in extreme impairment, such as coma, ventilator dependence, or functioning at the brain stem level;
- (3) Requires a temporary admission because further assessment cannot be made until delirium resolves;
- (4) Requires emergency admission for protective services;
- (5) Requires respite for the caregiver of the applicant with MI or DD; or
- (6) Requires convalescent care and rehabilitative services, is admitted directly from an acute care hospital, and requires services for the condition for which he or she received care at the hospital.

(b) An applicant admitted pursuant to (a)(3) above shall be predetermined eligible for facility admission and services for 30 days.

(c) An applicant admitted pursuant to (a)(4) above shall be predetermined eligible for facility admission and services for 7 days.

(d) An applicant admitted pursuant to (a)(5) above shall be eligible for services totaling 20 days during any one-year period beginning on the month and day of the earliest date of respite service.

(e) An applicant admitted pursuant to (a)(6) above shall be predetermined eligible for the number of days specified by the applicant's physician if:

- (1) The admission is ordered by the applicant's physician;
- (2) The order does not exceed 99 days;

(3) Notice was provided pursuant to He-M 1302.03(e); and

(4) The referring physician has indicated that the applicant does not need long-term placement in a nursing facility but does need short-term convalescence or rehabilitation to allow the applicant to return to a residential placement in the community.

(f) An applicant admitted pursuant to (a)(1) or (2) above shall be evaluated for the need for specialized services pursuant to He-M 1302.10 or He-M 1302.11 if the medical condition improves to the extent that the individual might respond to services for his or her MI or DD.

(g) A nursing facility shall notify the PASRR office no less than 9 days prior to the expiration of the time period allowed under (b), (d), or (e) above that the applicant's stay is likely to exceed the allowed period.

(h) An applicant admitted pursuant to (a)(3)–(6) above and whose nursing facility stay is expected to continue beyond the number of days allowed under (b)–(e) shall undergo a level II evaluation and determination prior to the end of the allowed timeframe.

(i) For the purposes of (a)(2) above, cerebral palsy, in and of itself, shall not constitute a severe physical condition or be a criterion for predetermination of eligibility for nursing facility services.

(j) An applicant with a diagnosis of DD shall be screened for the need for nursing facility services regardless of a diagnosis of Alzheimer's disease, dementia, or a related disorder.

(k) Applicants admitted pursuant to (a)(3)–(5) above shall be predetermined to not require specialized services.

He-M 1302.07 Determination of Need for Nursing Facility Services.

(a) The PASRR office shall conduct an evaluation that assesses whether:

(1) The individual's total needs are such that his or her needs can be met in an appropriate community setting;

(2) The individual's total needs are such that they can be met only on an inpatient basis, which may include the option of placement in a home and community-based services waiver program, but for which the inpatient care would be required; and

(3) If inpatient care is appropriate and desired, the NF is an appropriate placement.

(b) The PASRR office shall determine that an applicant needs nursing facility services if he or she meets the clinical eligibility requirements for nursing facility services in RSA 151-E:3, I(a), namely, the person requires 24-hour care for one or more of the following purposes, as determined by a registered nurse appropriately trained to use an assessment instrument and employed by the department, or a designee acting on behalf of the department:

(1) Medical monitoring and nursing care when the skills of a licensed medical professional are needed to provide safe and effective services;

(2) Restorative nursing or rehabilitative care with patient-specific goals;

- (3) Medication administration by oral, topical, intravenous, intramuscular, or subcutaneous injection, or intravenous feeding for treatment of recent or unstable conditions requiring medical or nursing intervention; or
- (4) Assistance with 2 or more activities of daily living involving eating, toileting, transferring, bathing, dressing, and continence.

He-M 1302.08 Determination of Appropriateness for Nursing Facility Services.

(a) For applicants who require nursing facility services pursuant to He-M 1302.07, but could be served in a community setting with supports identified in He-M 1302.04(a)(2)d., the PASRR office shall:

- (1) Advise the applicant or his or her legal representative that the individual could receive services in a home or other community-based setting;
- (2) Advise the applicant or his or her legal representative of the community-based programs provided by the regional area agency, community mental health center, or other agencies;
- (3) Inform the applicant or his or her legal representative that the applicant may choose to receive services in a setting of his or her choice, including a nursing facility, following an informed decision; and
- (4) Provide written notice of the information provided in (1) – (3) above to the applicant or his or her legal representative.

(b) If an applicant is determined to need nursing facility services pursuant to He-M 1302.07, and either, after making an informed decision not to accept services in a community setting pursuant to (e) below or it is determined that the person cannot be served in the community, the PASRR office shall determine whether a specific nursing facility is an appropriate placement for the applicant.

(c) For applicants requiring services pursuant to He-M 1302.07, the PASRR office shall specify length of stay allowances based on an applicant's specific needs and circumstances.

(d) Applicants shall not be approved for nursing facility services:

- (1) If they do not meet the criteria of He-M 1302.07; or
- (2) If no nursing facility is an appropriate placement.

(e) If an applicant wishes to make an informed decision to reside in a nursing facility after it is determined by the PASRR office that the applicant meets the minimum standard for nursing facility services pursuant to He-M 1302.07 and identifies programs that provide community-based supports, the PASRR office shall request that the person sign a statement indicating that he or she is making an informed decision to receive nursing facility services in a nursing facility.

(f) In those cases where the decision of an applicant or applicant's legal representative pursuant to (e) above jeopardizes the health, safety, or welfare of the applicant, the PASRR office shall, as applicable:

- (1) Seek the appointment of a guardian pursuant to RSA 464-A:9, III;
- (2) Seek the appointment of a guardian ad litem pursuant to RSA 464-A:41;

- (3) Seek the termination of a power of attorney pursuant to RSA 506:7 or RSA 137-J:16; or
- (4) In those situations where abuse, neglect, or exploitation of applicants is suspected, make a referral to adult protective services of the bureau of elderly and adult services and make a report to the department's office of client and legal services.

(g) The PASRR office shall inform the applicant of its determination and recommendations in writing.

He-M 1302.09 Responsibility for Evaluations and Determinations.

(a) Evaluations required to make determinations relative to an applicant's need for nursing facility services and need for specialized services shall be completed by:

- (1) An entity other than the bureau of behavioral health for persons with MI; or
- (2) The bureau of developmental services or its delegate for persons with DD.

(b) If the bureaus delegate determination functions to another entity:

- (1) The determinations as to the need for nursing facility services and for specialized services shall be made based on an analysis of information specified in He-M 1302.07, He-M 1302.08, He-M 1302.10, and He-M 1302.11; and
- (2) The other entity shall not be a nursing facility or have a direct or indirect affiliation or relationship with a nursing facility.

(c) The evaluations performed pursuant to (a) above shall:

- (1) Be adapted to the cultural background, language, ethnic origin, and means of communication used by the applicant being evaluated;
- (2) If performed by more than one evaluator, be coordinated among the various disciplines; and
- (3) Involve the applicant, his or her legal representative, and, if the applicant or legal representative agrees, the applicant's family, if available.

He-M 1302.10 Specialized Services for People with MI.

(a) Once the PASRR office finds an applicant with MI appropriate for nursing facility services, it shall determine whether specialized services are needed based on individualized evaluation.

(b) The individualized evaluation required by (a) above shall include:

- (1) A comprehensive history and physical examination of the applicant that shall:
 - a. Include:
 - 1. Complete medical history;
 - 2. Review of all body systems, including neurological; and

3. In cases of abnormal findings, additional evaluations conducted by specialists; and

b. Either:

1. Be performed by a physician; or

2. Be reviewed by a physician concurring with the conclusions of the evaluation;

(2) A comprehensive drug history, including current and past use of medications that could mimic or mask symptoms of MI;

(3) A psychosocial evaluation, including evaluation of current living arrangements and social, financial, and medical support systems;

(4) A comprehensive psychiatric evaluation that includes:

a. Complete psychiatric history;

b. Evaluation of orientation and of intellectual and memory functioning;

c. Current attitudes and overt behaviors;

d. Affect and suicidal or homicidal ideation; and

e. Degree of reality testing and hallucinations; and

(5) Functional assessment of the applicant's ability to engage in activities of daily living, the level of support which would be needed to assist the applicant to perform these activities while living in the community, and whether this level of support can be provided to the applicant in an alternative community setting or whether the level of support needed is such that nursing facility placement is required, which shall address the following areas:

a. Self-monitoring of health status;

b. Self-administering or scheduling of medical treatments, including medication compliance;

c. Self-monitoring of nutritional status;

d. Managing money; and

e. Grooming and dressing appropriately.

(c) Applicants who are found, after evaluation pursuant to (a) above, to be experiencing MI and to require specialized services as defined in He-M 1302.02(n) shall have a nursing facility plan of care that:

(1) Is developed and supervised by an interdisciplinary team which includes the individual and, if applicable, his or her legal representative, a physician, qualified mental health professional and, as appropriate, other professionals;

(2) Prescribes specific therapies and activities for the treatment of persons experiencing an acute episode of MI which necessitates supervision by trained mental health professionals; and

(3) Is directed toward diagnosing and reducing the applicant's behavioral symptoms of MI and improving his or her level of independent functioning, which ideally would lead to services that are of a lesser intensity than specialized services.

He-M 1302.11 Specialized Services for People with DD.

(a) Once the PASRR office finds an applicant with DD appropriate for nursing facility services, it shall determine whether specialized services are needed based on individualized evaluation.

(b) The individualized evaluation required by (a) above shall include the individual's comprehensive history and physical examination results to identify the following information or, in the absence of data, information that permits a reviewer specifically to assess:

- (1) The individual's medical problems;
- (2) The level of impact these problems have on the individual's independent functioning;
- (3) All current medications used by the individual and the current response of the individual to any prescribed medications in the following drug groups:
 - a. Hypnotics;
 - b. Antipsychotics;
 - c. Mood stabilizers and antidepressants;
 - d. Antianxiety-sedative agents; and
 - e. Anti-Parkinson agents;
- (4) Self-monitoring of health status;
- (5) Self-administering and scheduling of medical treatments;
- (6) Self-monitoring of nutritional status;
- (7) Self-help development such as toileting, dressing, grooming, and eating;
- (8) Sensorimotor development, such as ambulation, positioning, transfer skills, gross motor dexterity, visual motor perception, fine motor dexterity, eye-hand coordination, and extent to which prosthetic, orthotic, corrective or mechanical supportive devices can improve the individual's functional capacity;
- (9) Speech and language development, including:
 - a. Expressive language;
 - b. Receptive language;

c. The extent to which non-oral communication systems can improve the individual's function capacity; and

d. Auditory functioning and extent to which amplification devices or a program of amplification can improve the individual's functional capacity;

(10) Social development, such as interpersonal skills, recreation-leisure skills, and relationships with others;

(11) Educational development, including functional learning skills;

(12) Independent living development, including:

a. Meal preparation;

b. Budgeting, shopping, and personal finances;

c. Survival skills;

d. Mobility skills;

e. Laundry, housekeeping, and care of clothing; and

f. Orientation skills for individuals with visual impairments;

(13) Vocational development, including present vocational skills;

(14) Affective development, including expressing emotions, making judgments, and making independent decisions; and

(15) The presence of identifiable maladaptive or inappropriate behavior.

(c) Applicants who have DD and are found to require specialized services as defined in He-M 1302.02(m) shall have a nursing facility plan of care that is:

(1) Developed by an interdisciplinary team, including the individual and, if applicable, his or her legal representative, nursing facility staff, representing areas that are relevant to identifying the person's needs and to designing services that meet his or her needs;

(2) Directed toward helping the applicant continue to experience community-based opportunities and maintain social ties with family and friends;

(3) Designed to assist the applicant to acquire behaviors necessary to function with as much self-determination and independence as possible; and

(4) Intended to prevent or decelerate the regression or loss of current functional status.

(d) An applicant with DD who requires nursing facility services shall be determined not to require specialized services if he or she has a confirmed primary diagnosis of dementia.

He-M 1302.12 Notification and Documentation of Level II Evaluations and Determinations.

(a) A written report of the findings of the level II evaluation and determination pursuant to He-M 1302.04 or resident review pursuant to He-M 1302.13 shall be prepared by the PASRR office and conveyed to the following:

- (1) The applicant and, if applicable, his or her legal representative;
- (2) The discharging hospital, if applicable;
- (3) The admitting or retaining nursing facility; and
- (4) The attending physician, if applicable.

(b) The written report shall include the following:

- (1) A listing of the evaluations reviewed, including the evaluators' names and professional titles and dates prepared;
- (2) The name and title of the reviewer and date of review;
- (3) An interpretation of the results of the evaluations in terms of the applicant's functional status;
- (4) A brief summary of the applicant's medical and social history;
- (5) The positive traits or developmental strengths of the individual;
- (6) The weaknesses or developmental needs of the individual;
- (7) A description of the supports identified in He-M 1302.04(a)(2)d. that the individual would need to live in the community;
- (8) If nursing facility services are recommended, identification of the specific services needed to meet the individual's needs;
- (9) If specialized services are recommended, what specifically is required to meet the individual's needs;
- (10) If specialized services are not recommended, identification of any specific DD or mental health services of lesser intensity that the individual requires to meet his or her needs;
- (11) The basis for the report's conclusions, including the specific reason for the determination rendered and referenced section of the rule;
- (12) The right of the applicant or legal representative to appeal a nursing facility admission determination;
- (13) The right of the applicant to have someone, including an attorney paid for by the applicant, represent him or her at the hearing; and

(14) The process for appealing the determination, including the names, addresses, and phone numbers of the office of client and legal services of the department and advocacy organizations such as the Disabilities Rights Center, Inc., that the individual or guardian may contact for assistance in appealing the determination.

He-M 1302.13 Resident Reviews.

(a) Whenever there has been a significant change in the physical or mental condition of an individual with MI or DD:

(1) The nursing facility shall report the change to the PASRR office; and

(2) The PASRR office shall perform a resident review by:

a. Confirming there has been a significant change; and

b. If there has been a significant change, conducting a level II evaluation and determination.

(b) "Significant change" means when an individual's mental or physical condition has declined or improved such that the change:

(1) If a decline, will not normally resolve itself without intervention by staff or by implementing standard disease-related clinical interventions;

(2) Impacts more than one area of the resident's health status; and

(3) Requires interdisciplinary review or revision of the plan of care, or both.

(c) Upon completion of a resident review, the PASRR office shall convey the findings to the individual and his or her legal representative pursuant to He-M 1302.12.

(d) The resident review shall include one of the following determinations regarding continued placement for individuals with MI or DD:

(1) Any individual who does not require nursing facility services and does not need specialized services shall be discharged from the nursing facility;

(2) Any individual who requires the services provided by a nursing facility and is currently receiving such services shall continue to receive services if he or she chooses;

(3) An individual shall be offered specialized services and may choose to move to community living or continue to reside in the facility if he or she:

a. Has resided in a nursing facility at least 30 consecutive months prior to the review date;

b. Does not require the services provided by a nursing facility; and

c. Requires specialized services; and

(4) An individual shall be discharged from the nursing facility if he or she:

- a. Has resided in a nursing facility less than 30 consecutive months prior to the review date; and
- b. Does not require the services provided by a nursing facility; and
- c. Needs specialized services.

(e) The resident review shall also specify service determinations and related actions documenting the need for the continuation of specialized services, if applicable.

(f) For the purpose of establishing length of stay in nursing facilities, the 30 months of continuous residence referenced in (d)(3)-(4) above shall:

- (1) Be calculated back from the date of the first resident review determination which finds that the individual is not in need of nursing facility services; and
- (2) Include temporary absences and consecutive residences in more than one nursing facility.

He-M 1302.14 Appeals.

(a) Any applicant, or his or her legal representative, may request an appeal of a determination regarding nursing facility admission or continued nursing facility stay.

(b) A request for an appeal pursuant to (a) above shall:

- (1) Be in writing;
- (2) Be submitted to the office of client and legal services; and
- (3) Be filed in accordance with He-C 200 within 35 days of the issuance of the determination.

(c) Funding for services provided to Medicaid recipients for continuing stays shall be available during the period that an appeal is in progress until a decision is rendered.

APPENDIX

<u>Rule Number</u>	<u>RSA/Federal Citation</u>
He-M 1302.01	RSA 171-A:6; 135-C:1
He-M 1302.02	RSA 171-A:6; 135-C:1
He-M 1302.02(i)	42 CFR 483.102(b)
He-M 1302.03	RSA 171-A:6; 135-C:1; 42 CFR 483.106
He-M 1302.04	RSA 171-A:6; 135-C:1; 42 CFR 483.112
He-M 1302.05	RSA 171-A:6; 135-C:1; 42 CFR 483.106(b)
He-M 1302.06	RSA 171-A:6; 135-C:1; 42 CFR 483.130
He-M 1302.07	RSA 171-A:6; 135-C:1; 42 CFR 483.132
He-M 1302.08	RSA 171-A:6; 135-C:1; 42 CFR 483.132
He-M 1302.09	RSA 171-A:6; 135-C:1; 42 CFR 483.106(d)
He-M 1302.10	RSA 171-A:6; 135-C:1; 42 CFR 483.134
He-M 1302.11	RSA 171-A:6; 135-C:1; 42 CFR 483.136
He-M 1302.12	RSA 171-A:6; 135-C:1; 42 CFR 483.130(k), (l)
He-M 1302.13	RSA 171-A:6; 135-C:1; 42 CFR 483.114; 42 USC 1396r
He-M 1302.14	RSA 171-A:29; 135-C:1

BUREAUS OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES
RULES INDEX
10/29/12

<u>Standard</u>	<u>Title</u>	<u>Type</u>	<u>Effective Dates</u>
He-M 201	Administrative Review of Complaint Investigation Findings	P	01/03/08 – 01/03/16
He-M 202	Rights Protection Procedures For Developmental Services	P	08/15/11 – 08/15/19
He-M 203	Complaint Resolution Procedures for Family-Centered Early Supports And Services	P	11/11/09 – 11/11/17
He-M 204	Rights Protection Procedures	R	01/20/11 – 01/20/19
He-M 305	Personal Safety Emergencies	R	04/03/08 - 04/03/16
He-M 306	Medical and Psychiatric Emergencies	R	08/04/09 - 08/04/17
He-M 309	Rights of Persons Receiving Mental Health Services in the Community	R	11/17/06- 11/17/14
He-M 310	Rights of Persons Receiving Developmental Services or Acquired Brain Disorder Services in the Community	R	08/04/06 – 08/04/14
He-M 311	Rights of Persons in State Mental Health Facilities	R	11/17/06 – 11/17/14
He-M 314	Rights of Persons Using Emergency Shelters	R	11/22/08 - 11/22/16
He-M 315	Rights of Persons Receiving Peer Support Services	R	10/06/05 – 10/06/13
He-M 316	Committee for the Protection of Human Subjects	R	11/04/09 – 11/04/17
He-M 401	Eligibility Determination and Individual Service Planning	M	09/02/04 - 09/02/12
He-M 402	Peer Support	M	10/06/05 – 10/06/13
He-M 403	Approval and Operation of Community Mental Health Programs	M	09/01/09 – 09/01/17
He-M 405	Designation of Receiving Facilities	M	06/29/99 - 06/29/07
He-M 408	Clinical Records	M	07/09/09 - 07/09/17
He-M 425	Community Mental Health Regions	M	02/17/07 - 02/17/15

NOTE: He-M rules (other than newly adopted rules) are available at the website of the Office of Legislative Services of the N.H. Legislature. The address for the rules page is:

http://gencourt.state.nh.us/rules/state_agencies/he-m.html

He-M 426	Community Mental Health Services	M	09/30/08 – 09/30/16 Amended 10/24/09
He-M 501	Autism Registry	D	05/17/08 – 05/17/16
He-M 503	Eligibility and the Process of Providing Services	D	01/27/07 - 01/27/15
He-M 505	Establishment and Operation of Area Agencies	D	06/30/07 – 06/30/15
He-M 506	Staff Qualifications and Staff Development Requirements for Developmental Services Agencies	D	04/11/06 – 04/11/14
He-M 507	Day Services	D	04/16/05 – 04/16/13 Amended 01/24/06
He-M 510	Family-Centered Early Supports and Services	D	11/11/09 – 11/11/17
He-M 513	Respite Care	D	12/01/11 - 12/01/19
He-M 517	Medicaid-Covered Home and Community-Based Care Services for Persons with Developmental Disabilities and Acquired Brain Disorders	D	09/01/05 - 09/01/13 Amended 01/24/09
He-M 518	Employment Services	D	08/22/05 - 08/22/13
He-M 519	Family Support Services	D	02/26/11 - 02/26/19
He-M 520	Children's Special Medical Services	D	07/01/10 – 07/01/18
He-M 521	Certification of Residential or Combined	D	05/22/09 - 05/22/17
	Residential and Day Services Provided in the Family Home		
He-M 522	Eligibility Determination and Service Planning for Individuals with an Acquired Brain Disorder	D	06/25/10 - 06/25/18
He-M 523	Family Support Services To Children With Chronic Health Conditions	D	06/18/10 - 06/18/18
He-M 524	In-Home Supports	D	11/17/11 – 11/17/19
He-M 525	Consolidated Services	D	03/22/11 – 03/22/19
He-M 526	Designation of Receiving Facilities for Developmental Services	D	01/03/08 – 01/03/16
He-M 527	Admission to and Discharge from a Designated Receiving Facility for Developmental Services	D	01/03/08 – 01/03/16
He-M 528	Conditional Discharge from a Designated Receiving Facility for Developmental Services	D	01/03/08 – 01/03/16
He-M 529	Transfers Between Designated Receiving Facilities in the Developmental Services System	D	01/03/08 – 01/03/16

He-M 601	Payments to Disproportionate Share Psychiatric Hospitals	N	11/27/05 – 11/27/13
He-M 609	Conditional Discharge	N	08/23/08 - 08/23/16
He-M 611	Secure Psychiatric Unit Transfers	N	02/01/09 - 02/01/17
He-M 612	Transfers Between Receiving Facilities	N	06/26/08 - 06/26/16
He-M 613	Admission to and Discharge from New Hampshire Hospital	N	06/26/08 - 06/26/16
He-M 701	Admissions to Glencliff Home	G Amended	07/03/09 – 07/03/17 10/16/09
He-M 1001	Certification Standards for Community Residences	H	10/01/10 – 10/01/18
He-M 1002	Certification Standards for Behavioral Health Community Residences	H	03/25/11 – 03/25/19
He-M 1005	Acute Psychiatric Residential Treatment Programs	H	01/05/96 - 01/05/04
He-M 1007	Housing Security Guarantee Program	H	10/24/09 – 10/24/17
He-M 1201	Healthcare Coordination And Administration Of Medications	Me	09/19/11 - 09/19/19
He-M 1202	Administration of Medications in Behavioral Health Programs	Me	09/19/03 - 09/19/11 Interim expires 3/19/12
He-M 1301	Medical Assistance Services Provided by Education Agencies	S	11/22/07 – 11/22/15
He-M 1302	Nursing Facility Preadmission Screening and Resident Review (PASRR)	S	10/29/12 – 10/29/20

Chapter Titles

Chapter 100 (O):	Organizational
Chapter 200 (P):	Practice and Procedures
Chapter 300 (R):	Rights
Chapter 400 (M):	Community Mental Health
Chapter 500 (D):	Developmental Services
Chapter 600 (N):	New Hampshire Hospital
Chapter 700 (G):	Glencliff Home for the Elderly
Chapter 900 (C):	Collections
Chapter 1000 (H):	Housing
Chapter 1200 (Me):	Medication
Chapter 1300 (S):	Specialized Services